

If any independent claims are allowed, we request the removal of the restriction requirement for any claims that are dependent as originally filed from the allowed independent claims in this application.

TRAVERSAL

Applicants submit that, according to MPEP 803, a proper Restriction Requirement must meet two criteria:

- (1) the inventions must be independent or distinct as claimed, and
- (2) there must be a serious burden on the examiner if restriction is not required.

Further, the present Office Action states the inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. MPEP 806.05(e).

In the present Office Action the claims have been divided into three Groups. The Action states Group II does not require the specific functionality of Groups I or III.

Applicants respectfully traverse the Restriction of the claims in the present Action. Applicants submit that no serious burden would be placed on the Examiner to examine all of the claims, as all are drawn to a method of purchasing a customized storage medium with varied additions. Applicants submit this would not pose a burden to search and examine. The core of the invention is the method of purchasing a customized storage medium. Further, the Examiner has not stated why there is a serious burden in examining all of these claims. Applicants therefore submit a restriction requirement is not proper (see MPEP 806.05 (h)).

For these reasons, Applicants respectfully request the Examiner to reconsider the restriction requirement of the present Action, or in the alternative, to at least include Groups I and III for examination.

The present Action further requires Applicants to select species for examination if Group I is selected for examination. The Examiner states there are five distinct Species of Group I:

1. Species of claims 1, 2, and 5, the method further comprising the step of previewing;
2. Species of claims 1, 3, and 5, the method further comprising steps of designing and printing a label;
3. Species of claims 1, 4, and 5, the method further including a list on the label;
4. Species of claims 1, 5, and 7, the method further comprising affixing a magnetic strip to the case with payment selection; and
5. Species of claims 1, 5, 8, and 9, the method further comprising the step of recording data on a data server with payment.

As stated with regards to the Restriction Requirement, the forced election of species should also be withdrawn, as the Species of claims 1 through 9 all relate to a method of buying a customized storage medium with or without a label and with or without payment information recorded.

If this restriction requirement is made FINAL, Applicants preserve the right of petition from this Requirement for Restriction under 37 C.F.R. §1.144 and Applicants reserve the right to file one or more continuing applications on the withdrawn claims.


REMARKS

In light of the foregoing, Applicants respectfully submit they have addressed each and every item presented by the Examiner in this Restriction Requirement. Favorable reconsideration of all of the claims is earnestly solicited. Applicants submit the present application, with the foregoing claims, specification and accompanying remarks, is in a condition for allowance and respectfully request such allowance.

If the Examiner believes there is any issue which could be resolved by a telephone or personal interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee for such an extension is to be charged to Deposit Account No. 04-1061.

Respectfully submitted,


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